

GOVERNMENT OF ANDHRA PADESH

A B S T R A C T

Social Welfare – Appeal Petition filed by Sri P.Subbarayudu, Sub-Post Master-Kadapa against the cancellation of the Scheduled Caste Certificate by the District Collector, Kadapa vide Proceedings No.C5/102/M/2005, dated: 22.7.2010. – Appeal rejected – Orders – Issued.

SOCIAL WELFARE (CV.1) DEPARTMENT

G.O.Ms.No. 31

Dated: 06-05-2011

Read the following:

1. Proceedings of the District Collector, Kadapa C5/102/M/2005, dated: 22.7.2010.
2. Appeal petition of Sri P.Subbarayudu, S/o P.Pulliah, Sub- Post Master, Kadapa, Dated: 14-9-2010.
3. Govt Memo No.7935/CV.1/2010-1, SW (CV.1) Dept. dated:27.10.2010.
4. The District Collector, Kadapa Letter No.C5/102/M/2010, dated:13.12.2010.
5. The Government Letter No.7935/CV.1/2010-4 dt: 28-2-2011 addressed to Sri P. Subbarayudu, appellant.

O R D E R:

In the reference 1st read above, the District Collector, Kadapa has issued proceedings canceling the Scheduled Caste (Mala) Caste Certificate issued by the MRO, Kadapa Mandal to Sri Palle Subbarayudu, S/o Palle Pulliah, Kadapa.

2. Aggrieved by the said Proceedings of the District Collector, Kadapa, Sri P.Subbarayudu in the reference 2nd read above, has filed an appeal petition before the Government u/s 7(2) of the A.P (SCs, STs & BCs) Issue of Community Certificates Act No. 16 of 1993, and rules issued there under and submitted the following grounds in support of his claim.

1. The order of the respondent No.1 is contrary to law, material evidence on record and probabilities of the case.
2. The order of the respondent No.1 suffers from violative of the principles of natural justice as the same has been issued without following due procedure contemplated under the provisions of section 5 of the Andhra Pradesh(SC, ST, BCs) Regulation of Issue of Community Certificates Act 1993 and rules 8 and 9 of the rules, 1997.
3. The order of the respondent No.1 is liable to be set aside as the same has been issued basing on the report of the respondents No.3&4 and without providing an opportunity of being heard to the appellant or calling for explanation from the appellant to the findings of the respondents No.3 & 4.
4. The respondent No.1 failed to see that an enquiry has been already held by the then MRO, Mydukur, Y.S.R. District and gave a finding that the appellant belongs to Scheduled Caste and the said finding became final way back in the year, 1994 and as such committed gross illegality and irregularity in ordering for further enquiry on the same issue once again in the year, 2003 after lapse of 9 years.

[Contd.....2]

5. The order of the respondent No.1 is liable to be set aside as the findings were recorded behind the back of the appellant and passed the impugned proceedings without furnishing any of the report or giving opportunity of being heard before passing the impugned orders basing on the findings recorded by the respondents No.3& 4.
6. The respondent No.2 ought to have seen that the father of the appellant who originally belongs to Vysya Caste married one Smt Tirupalamma @ Subbamma in the year 1948 who belongs to Mala (Scheduled Caste) that the father of the appellant eliminated from Vysya caste by his caste people, that the father of the appellant settled with his wife in his in-laws house, that the father of the appellant and his children were recognized by the Scheduled Caste Community as they belong to Scheduled Caste and ought not to have cancelled the Caste Certificate of the appellant.
7. The respondent No.1 failed to see that the appellant caste was mentioned as Harijana in the birth extract way back in the year, 1949 by which time there was no reservation to Scheduled Caste people and as such the respondents No.3 and 4 could not elicit any motive or intention in mentioning the appellant caste as Harijana (Scheduled Caste).
8. The respondent No.1 ought to have seen that the appellant herein is a Harijana (Scheduled Caste) by his birth as well as biologically and ought not to have cancelled his caste certificate.
9. The respondent No.1 ought to have seen that the birth extract of the appellant and all his educational certificates clearly shows that he belongs to Scheduled caste and ought not to have cancelled the same.
10. The respondent No.1 ought to have seen that the appellant is not claiming any reservation to his children as he is following Vysya Customs after his marriage and ought to have restricted the Caste Certificate to the appellant instead of canceling the same.
11. The respondent No.1 failed to see that there is no finding that the appellant obtained the caste certificate by playing fraud on the officials and as such committed gross irregularity and illegality in canceling the same.
12. The Respondent No.1 ought to have seen that the appellant is not claiming any reservation contemplated under G.O.Ms.No.371 and the same has no relevance to the case of the appellant and as such committed gross illegality and irregularity in canceling the caste certificate of the appellant relying the G.O.Ms.No.371, Employment & Social (B2) Department, dated: 13-4-1976.
13. The respondent No.1 having admitted that the mother of the appellant who was deserted by some unknown persons in a scheduled area in Kandipalem Arjunawada was brought up by his grand parents committed gross illegality in holding that the appellant cannot be considered that he is born to a Scheduled Caste mother and he is entitled to claim schedule caste status.

[Contd.....3]

14. The respondent No.1 except to state that the mother of the appellant was deserted when she was infant utterly failed to give finding that to which community she belongs and thus gross illegality in ordering for cancellation of the Caste Certificate granted in favour of the appellant on his assumptions and presumptions, even though, the mother of the appellant was brought up by Schedule Caste parents.
15. The respondent No.1 committed gross illegality in ordering for cancellation of Scheduled Caste status of the appellant without giving a finding that the mother of the appellant belongs to the Scheduled Caste Community or not.
16. The order of the respondent No.1 is perverse and contrary to the material evidence on record and the same is liable to be set aside as the findings are unsound and unsustainable.

In the reference 3rd read above, the Government have admitted the appeal petition and stayed the operation of the Proceedings dated: 22-7-2010 of the District Collector, Kadapa and requested the District Collector, Kadapa to furnish Parawise remarks and connected records to examine and finalize the case.

The District Collector, Kadapa vide his letter 4th read above has furnished the relevant records and parawise remarks against the Appeal petition filed by Sri P.Subbarayudu.

Government after careful examination of the records etc, have observed as follows:

- a) The cancellation orders are not contrary to law, materialistic evidence on record and probabilities of the case and are purely in accordance with the rule position and connected law.
- b) The appellant was given fair opportunity to represent his case and to defend it before the Revenue Divisional Officer & Member Convener, the District Level Scrutiny Committee. He made a clear deposition before the DRO admitting his fraud. Section 5 of Act No.16 of 1993 lays down that if the District Collector confirms that a particular person benefits on the strength of a bogus Caste Certificate, the District Collector shall cancel it, the same section of law was followed in this case either. Hence, the appellant cannot take shelter under the shadow of the above fragile ground.
- c) The matter was got enquired through the MRO Mydukur in the year 1994 as the petitioner was then working at that place. But his birth place is Kandipalem in Kadapa, where the appellant studied his primary education. The report of the MRO Mydukur is not final and it would not exonerate him from the charge, unless proper enquiries are conducted at Kandipalem. Further, as per the contention of the appellant, ordering further enquiry after nine (9) years once again in the year 2003 is not a point at all, even since the Superintendent of Post Offices referred the case to the District Administration for enquiry in the year 1994 itself and the enquiry was in continuous progress and it was concluded in the year 2003. Hence the question of ordering re-enquiry in this case after nine (9) years does not arise.

[Contd.....4]

- d) Though the appellant's father lived in SC society for a particular period of time the practice was dispensed with by the time of Subbarayudu's generation. He did not assimilate himself into Scheduled Caste Community. He married Vysya women, he gave his sister married in Vysya caste and he admitted his children made him devoid of SC cover and put Vysya caste to all his children and got relations with Vysya Caste people. Hence the contention of the appellant is not tenable.
- e) He discarded all the lower caste bonds and assumed the Vysya identity (O.C) may be his birth extract, and biological record here the Scheduled Caste mark, but in his inner depth he never used to be so he was accustomed to consider himself as Vysya (OC) customs and life style and allowed himself as Vysya in all vital aspects of life.
- f) It is out of logic on the part of the appellant to contend that he developed relations with Vysya people only after his marriage with Vysya women, in the year 1976. It is actually his affinity towards Vysya people that should have encouraged his marriage with a Vysya woman. It would have been his Vysya background that impelled his marriage. The appellants one more argument raised that his personal life style of following Vysya Customs cannot affect his official service is also not correct, that principle holds good only when such people do not get benefits under customs of a different higher caste.
- g) It is confirmed fact that the appellant played fraud and the officials know very well that he secured job under Scheduled Caste quota yet he chosen to embrace 'Vysya' life style in all walks of life, so many years of his life. But he did not make any attempt to inform his department about his change of caste, the reason for this is very apparent. It shall affect his job prospects. It is this motive which made him adopt strict silence. His fraud continued to be latent, till the postal department detected it and launched enquiry.
- h) The basic norm of the G.O.Ms No.371, Employment and Social Welfare (B2) Department, dated: 13-4-1976 is that child of an inter caste married couple can inherit the lower caste of either parent provided he /she should have been accepted by the members of such lower caste as one among them and it should also be proved during enquiries. The appellant who also happened to be a child of inter caste married couple and who secures job under the lower caste of his parents i.e., of his mother. This G.O. intends to only for admission into educational institutions, but not for job purpose. As such, having reliance on the noted G.O., while passing cancellation orders is quite appropriate and justifiable.
- i) The Tahsildar, Kadapa has reported that the appellant's mother, Smt Palle Thirupalamma is not the biological daughter of B.Mangamma of Kandipalem H.W. of Kadapa City. Smt Palle Thirupallamma, while an infant was found deserted by some unknown persons in a Scheduled area in Kandipalem HW of Kadapa city then being an infant, she was taken care of by the said Smt B.Mangamma of Scheduled Caste Community and was brought up by her as a deemed daughter. In later days Thirupalamma was married by Sri Palle Pullaiah, who is Vysya by Caste (OC). The appellant, Subbarayudu is their biological son and contends that he is the son of Scheduled Caste mother and OC father and he is intended his SC status from his mother.

- j) His intention is that instead of canceling his Caste Certificate to restrict its purview to the appellant is not tenable according to law.

5. The case has been taken up for personal hearing before the Appellate Authority on 14-3-2011 and that the appellant and his counsel were present and argued the case and submitted the following written arguments in support of his claim.

- a) "As per the Hindu Adoption and Maintenance Act, 1956 any child legitimate or illegitimate or who had been abandoned both by his /her father and mother and whose parentage not known and who in either case is brought by Hindu must be treated as Hindu. The mother of the appellant was abandoned when she was infant in Kandipalem, Harijanwada that she was brought up by a Scheduled Caste couple and hence as per the provisions of the Hindu Adoption Act, 1956 the mother of the appellant should be treated as Scheduled Caste"
- b) Mere following the customs of Vysya community by the appellant after his marriage i.e, from the year, 1976 does not change the characteristics/nature of his caste for appointment in the year, 1969 and continuity in the service and ought not to have cancelled the caste certificate of the appellant.

6. The Government after careful examination of the material made available, grounds and written arguments of the appellant and remarks of the District collector, Kadapa, have observed that the grounds stated by the appellant are fragile and devoid of merits and the appellant does not belong to Scheduled Caste community.

7. Therefore in exercise of powers conferred U/s 7 of Act No. 16 of 1993, and read with the rule 11 of AP (SCs, STs,& BCs) Issue of Community, Nativity and Date of Birth Certificates Rules 1997, hereby reject the appeal petition of Sri P.Subbarayudu duly upholding the proceedings of the District Collector, Kadapa issued in RC. C5/102/M/2005 dated: 22-7-2010.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

**J.RAYMOND PETER
PRINCIPAL SECRETARY TO GOVERNMENT**

To
The District Collector,
Kadapa.

Sri P.Subbarayudu,S/o P.Pullaiah,
Sub-Post Master, R/o Door No.39/435-2,
Omshanthi Nagar, Kadapa.
Kadapa District.

M/s.V.R.Reddy Kovvuri,
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Hyderabad-500 020.

Copy to:

The P.S. to M (SW)
The P.S., to Principal Secretary (SW)
SF/SC.

//Forwarded: by Order//

Section Officer